SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY
WRIT APPEAL NO. 958 OF 2006

BETWEEN
Ruksana Begum

.....Appellant

And

The Special Deputy Collector (Tribal Welfare),
And Prescribed Officer under A.P. Scheduled Area Land Transfer Regulation, 1959, Utnoor, Adilabad District & others.

.....Respondents

Counsel for the appellant : Shri S. Chandra Sekhar

Dated: 20.09.2006

::JUDGMENT::

Per G.S. SINGHVI, CJ

This is an appeal for setting aside order dated 25.07.2006 passed by the learned Single Judge in Writ Petition No.14636 of 2006, whereby she refused to entertain the appellant's prayer for quashing notice dated 01.04.2006 issued by Special Deputy Collector (Tribal Welfare) and Prescribed Officer (respondent No.1) under Section 3(2) of the Andhra Pradesh Scheduled Area Land Transfer Regulations, 1959 (for short 'the 1959 Regulations').

The appellant claims to be the owner in possession of Ac.13-21 guntas of land situated in Survey No.247 (Old No.117) of Thosam Village, Gudihatnoor Mandal, Adilabad District, which is said to have been gifted by her husband, Mohammed Khan. She questioned the legality of notice dated 01-04-2006 issued by respondent No.1 primarily on the ground that the complaint, which constitutes the foundation of notice, is malicious, frivolous and vexatious.

The learned Single Judge noted that the writ petitioner has not challenged the jurisdiction of respondent No.1 to issue notice under Section 3(2) of the 1959 Regulations and held that the issue relating to contravention, if any, of Section 3(1) of the 1959 Regulations need not be adjudicated at this stage. Accordingly, she dismissed the writ petition as premature.

Shri S. Chandra Sekhar, learned counsel for the appellant reiterated the grounds set out in the memo of appeal and argued that the proceedings initiated by respondent No.1 should be quashed because the provisions of Section 3(1) of the 1959 Regulations are not attracted in the appellant's case.

We have considered the submissions of the learned counsel for the appellant, but have not felt

impressed. In our opinion, the order under challenge does not suffer from an error apparent warranting interference under Clause 15 of the Letters Patent. Undisputedly, the appellant did not challenge the notice on the ground that the Prescribed Officer does not have the jurisdiction to issue notice under Section 3(2) of the 1959 Regulations. Rather, it was candidly admitted before the learned Single Judge that the Prescribed Officer has the jurisdiction to initiate proceedings under the 1959 Regulations. It is also not in dispute that so far the competent authority has not passed any order adversely affecting the right of the appellant. Therefore, refusal of the learned Single Judge to quash the notice impugned in the writ petition cannot be termed as erroneous.

We are further of the view that a writ of prohibition can be issued only if it is shown that the authority, which has initiated the proceedings under a particular statute, does not have the jurisdiction to do so. When it is admitted that the Prescribed Authority has the jurisdiction to initiate proceedings under Section 3(2) of the 1959 Regulations, the only course available to the petitioner/appellant was to file reply and contest the notice.

With the above observations, the appeal is dismissed.

As a sequel to dismissal of the writ appeal, W.A.M.P.No.2021 of 2006 filed by the appellant for interim relief is also dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

20.09.2006
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